THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9333 of 2007

Dated: 30-04-2007

Between:

Akumalla Eswaramma.

..... PETITIONER

AND

The Government of Andhra Pradesh,
rep. by its Secretary, Panchayat Raj Department,
Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9333 of 2007

ORDER:

The petitioner was elected as Member of Ward No.16 of Kanigiri Gram Panchayat in the elections held on 02.08.2006. On a complaint given by seventh respondent to the Executive Authority of the Gram Panchayat, third respondent, namely, the District Panchayat Officer conducted enquiry and issued an intimation vide ROC.No.2505/2006 (Pts)/A1, dated 09.03.2007. The operative portion thereof reads as under.

> In the Divisional Panchayat Officer, Kandukur enquired detailed that Smt.A.Eswaramma, 16th ward member having three children i.e., 1st child dt.13-6-1999, 2nd child 20-7-2001 and 3rd child 8-10-2004 has given birth and proof available. Hence, she is declared to be disqualified for 16th ward member for Kanigiri Gram Panchayat.

Therefore, under Section 19(3) of A.P. Panchayat Raj Act, 1994, Smt.A.Eswaramma, Kanigiri Gram Panchayat, 16th ward member is disqualified. Accordingly, orders intimated.

Aggrieved by the above order/intimation, instant writ petition is filed.

The learned counsel for the petitioner strenuously contends that the allegation that the petitioner has three children is not correct and that no enquiry was conducted by fifth respondent, namely, the Divisional Panchayat Officer. He nextly contends that no notice was not issued to the petitioner. Therefore impugned order/intimation dated 09.03.2007 is unsustainable.

The method and manner dealing with the applications/allegations made under Section 22 of the Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity) to that effect that a Member of the Gram Panchayat is not qualified or disqualified under Sections 17 to 20 of the Act to continue as Member has been explained by this Court in **N.Tirupataiah v. District Panchayat Officer**[1], **Sarihaddu Ramya v. Gudiwada Rural Mandal Parishad**[2] and **M.Jagannadha Rao v Government of A.P.**[3]. Applying the above principles, this Court is convinced that the impugned order/intimation dated 09.03.2007 cannot be faulted. However, merits of the case or the question whether the petitioner is indeed disqualified under Section 19(3) of the Act or not is matter within the jurisdiction of the District Court after considering Section 22 of the Act. The petitioner may avail remedy immediately, in which event, as per Section 22(2) of the Act, till the decision is given by the District Court, the petitioner shall continue to be Member of Ward No.16.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

30th April, 2007
ghn

[1] 2005 (1) ALT 426

[2] 2005 (1) ALT 673

[3] 2007 (1) ALD 779